

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6506 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NUTAN GUJARAT VIJ KARMACHARI SANGH

Versus

GUJARAT ELECTRICITY BOARD

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Appearance:

MR HK RATHOD for Petitioner

MR VJ DESAI for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/04/97

ORAL JUDGEMENT

1. Heard the learned counsel for the parties. The petitioner, Nutan Gujarat Vij Karmachari Sangh, filed this Special Civil Application before this Court and prayer has been made that the entire proceedings of oral interviews which were held on 17-12-1984 and 18-12-1984 by the respondent No.2 be quashed and set aside and the respondent No.2 be directed to fill up the post on technical side as per office order dated 26-10-1983.

Further prayer has been made to direct the respondents to implement the office order dated 26th October, 1983.

2. The office order dated 26th October, 1983, provides that instead of making direct recruitment to such technical posts, apprentices will first be engaged, and such of them who have completed apprenticeship satisfactorily will alone be considered for appointment to vacancies in the technical side. This office order has been issued under the subject, "Method of recruitment of technical trade apprentices and absorption of against available regular vacancies".

3. The petitioner, a workers' union, has made a grievance that 100% appointments on technical posts should have been made from the apprentices who have completed the training.

4. The counsel for the respondents made a statement before this Court that many of the apprentices have been given the appointments. Though the office order dated 26th October, 1983 provides for making of the 100% appointment on technical side from the apprentices, but 100% reservation for apprentices may not be justified on the ground of touchstone of Articles 14 and 16 of the Constitution. Be that as it may. It is not in dispute that the appointments have been made of the apprentices as well as of the candidates from open market. The stay order granted by this Court has been vacated. It is true that this Court while vacating the stay order has ordered that the appointments made of the persons other than apprentices would be subject to the result of this petition, but the appointments have been made of those persons long back and they are there in service for about 12 years. This petition has been filed by a union and in such matters none of its legal and fundamental rights are being infringed. In service matters, only the person who is aggrieved of his denial of appointment or other service conditions could have approached this Court. If the union has made a grievance, then the forum is provided elsewhere viz. by way of raising an industrial dispute. However, in view of the fact that the apprentices have also been given the appointment, and the open market candidates who have been given the appointment are not party to this petition, no relief of the nature as prayed for in this Special Civil Application can be granted, more so, when those appointments have been made about 12 years back.

5. In the case of Ishwar Singh vs. Kuldeep Singh reported in 1995 (Supp) (1) SCC 179, the Hon'ble Supreme

Court has held that the writ petition impugning selection and appointment without impleading and serving all the selected candidates is not maintainable. The Court has further held that more so when the appointments had already been made, no interference should be made. In the case in hand, as stated earlier, none of the candidate from open market other than the apprentices who have been selected and given the appointment have been impleaded as party.

6. In the result, this writ petition fails and the same is dismissed. Rule discharged.

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